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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,586	07/21/2003	Steve Gregory	22394.00	3382

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EXAMINER

NICOLAS, FREDERICK C

ART UNIT PAPER NUMBER

3754

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,586

Applicant(s)

GREGORY, STEVE

Examiner

Frederick C. Nicolas

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3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed subject matter in claim 6, lines 5-7, "said delivery pipe having a pin-sized hole to allow steady trickling of water from the container for watering soil around the plants" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6,8-10,12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris 5,597,097 in view of Racine 5,806,240.

Morris discloses a portable jug (col. 1, ll. 5-8), which comprises a container (5) for holding water (col. 8, ll. 65-67), the container having a top (10) with a central hole (46) defined therein for use in filling the jug, a bottom (14) and a surrounding side wall (18,26,22) extending between the top and the bottom of the container, the bottom including a downwardly sloped interior surface (30), a delivery pipe (36) disposed in the side wall proximate the bottom of the container as seen in Figure 1, the delivery pipe having a pin-sized hole (32), the delivery pipe further including a valve for regulating flow (col. 5, ll. 57-63), a handle (68), a plurality of supports (15,16). Morris lacks that the pin-sized hole is being used to allow steady trickling of water from the container for watering soil around the plants. Racine teaches the use of a watering jug (16) for watering plants, which comprises a container (18) for holding water, having a top with a central hole defined therein for use in filling the jug as seen in Figure 1, a delivery pipe (34) and a valve (46) combination near the bottom of the container having a pin-sized hole (31) of a predetermined diameter so as to allow trickling of water, for steady and uninterrupted watering of the soil around the plants (col. 2, ll. 39-67 onto col. 3, ll. 1-2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize Raccine's teaching onto Morris' portable jug by substituting Morris' delivery pipe and the valve with Raccine's delivery pipe (34) and the valve (46), in order to provide a system for supplying dripping water to a medium adjacent to a plant over an extended period of time, such as for several days, as taught by Raccine in (col. 1, ll. 5-7).

With respect to claim 13, the claimed limitation "wherein said container has a capacity of about 1 to 2 gallons.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the container with a capacity of about 1 to 2 gallons, because applicant has not disclosed that having a container with a capacity of about 1 to 2 gallons provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally with the container of Morris and Raccine, because the container of Morris and Raccine is being used to store and dispense liquid product.

Therefore, it would have been an obvious matter of design choice to modify the container of Morris and Raccine to obtain the invention specified in claim (13).

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morris 5,597,097 in view of Racine 5,806,240 as applied to claim 6 above, and further in view of Robb 3,830,406.

Morris-Racine in combination has taught all the features of the claimed invention except that the sloped interior surface of the container bottom has a stepped configuration. Robb shows a container (14) having a sloped interior surface (66,48), where the sloped interior surface has a stepped configuration as seen in Figure 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sloped interior surface of the container bottom of Morris and Racine to have a stepped up bottom, in order to permit efficient drainage of the contents as taught by Robb in (col. 3, ll. 54-55).

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morris 5,597,097 in view of Racine 5,806,240 as applied to claim 6 above, and further in view of Dennie 2,831,610.

Morris-Racine in combination has taught all the features of the claimed invention except that a removable cap for the delivery pipe. Dennie teaches the use of a removable cap (26) for a delivery pipe (7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Dennie's removable cap (26) onto the delivery pipe of Morris and Racine as taught by Dennie in Figure 1, in order to prevent the contents of the container from being emptied prior to removal of the cap.

Response to Arguments

6. Applicant's arguments filed 4/28/2005 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar, can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
December 16, 2005



Frederick C. Nicolas
Primary Examiner
Art Unit 3754